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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,498	11/20/2003	Richard Ormson	040373-0342	6685
22428	7590	09/09/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			LE, DANH C	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/716,498

Applicant(s)

ORMSON, RICHARD

Examiner

DANH C. LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-10,12,13 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 3,5,11 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 5/11/04 and 11/20/03 have been considered by the examiner and made of record in the application file.

### *Drawings*

2. The drawings were received on 01/30/04. These drawings are accepted by the examiner.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 4, 6-11, 13, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dent (WO 02/063892) in view of Seymour (EP 1 083 766).**

As to claim 1, Dent teaches a dual mode mobile communication device (figure 4) comprising means for repeatedly monitoring and determining signal quality of signals received on a first network, means for also monitoring and determining signal quality of signals received on a second network and for switching communication to the second network in dependence on the relative qualities of the two signals.

Dent fails to teach whilst the signal quality remains above a predetermined first threshold, at selected intervals if the determined signal quality in the first network falls

below the first threshold and means for also monitoring and determining signal quality of signals received on the second network more frequently if the signal quality on the first network falls beneath a second lower threshold, and means for switching communication to the second network in dependence on the relative qualities of the two signals. Seymour teaches whilst the signal quality remains above a predetermined first threshold, at selected intervals if the determined signal quality in the first network falls below the first threshold and means for also monitoring and determining signal quality of signals received on the second network more frequently if the signal quality on the first network falls beneath a second lower threshold, and means for switching communication to the second network in dependence on the relative qualities of the two signals (figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Seymour into the system of Dent in order to provide enhance system capacity.

As to claim 2, the combination of Dent and Seymour teaches a dual mode mobile communication device according, to claim 1 in which the selected intervals for monitoring the first and second networks when the quality of the signal on the first network falls below the first threshold are determined in dependence on the quality of signal on the first network (Seymour figure 3).

As to claim 4, the combination of Dent and Seymour teaches a dual mode mobile-communication device according to claim 1 in which the selected intervals for monitoring the first and second networks when the quality of the signal on the first network falls below the first threshold are dependent on the quality of the signal

received on the second network relative to the quality of the signal received on the first network (Seymour figure 3).

As to claim 6, the combination of Dent and Seymour teaches a dual mode mobile communication device according to claim 1 in which the selected intervals for monitoring the first and second network when the quality of the signal falls below the first threshold are dependent on both the quality of the signal received on the first network and the quality of the signal received on the second network relative to the quality of the signal received on the first network (Seymour figure 3).

As to claims 7-9, the combination of Dent and Seymour teaches a dual mode mobile communication device, the combination of Dent and Seymour fails to teach both dependencies are linear, the threshold values can be dynamically changed and changes to the threshold values are broadcast by either one of the mobile networks or both and are received by the device. However, the examiner takes Official Notice the reciting limitation are known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of above reciting limitations into the system of Dent in order to provide enhance system capacity.

As to claim 10, the claim is a method claim of claim 1; therefore, the claim is interpreted and rejected as set forth as claim 1.

As to claim 11, the claim is a method claim of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 13, the claim is a method claim of claim 4; therefore, the claim is interpreted and rejected as set forth as claim 4.

As to claim 15, the claim is a method claim of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

As to claims 16-18, the claims are method claim of claims 7-9; therefore, the claims are interpreted and rejected as set forth as claims 7-9.

### ***Allowable Subject Matter***

Claims 3, 5, 11, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As claims 3, 5, 11, 14, the combination of Dent and Seymour teaches a dual mode mobile communication device, the combination fails to teach the dependence on signal quality is a linear relationship based on two threshold levels and the current signal quality and the dependence on signal quality is a linear relationship based on the difference between the two signal quality levels.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Ovesjo et al (US 2002/0160785) teaches commanding handover between differing radio access technologies.

B. Bahl et al (US 2004/0223469) teaches system and method for concurrent operation of a wireless device into disjoint wireless networks.

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C.. Rautiola et al (US 2005/0064896) teaches dual terminal for accessing network directly or via a wireless intranet.

D.. Borth et al (US 5,574,973) teaches method register/-reassigning a call in a dual mode communication network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "danh", is written over a horizontal line.

August 30, 2005

DANH CONG LE  
PATENT EXAMINER